

Q-11

As CFA/MAP advocated in their comments filed earlier in this proceeding, it would be in the public interest for the Commission to encourage ATSC and CICATS to work out their technological differences. CFA/MAP Comments at 6-7 *See also*, Letter from Larry Irving, NTIA, to Chairman Hundt, August 9, 1996, at 2 ("Irving Letter II"). The public's needs are important, as are those of each industry involved in this debate, and no party should be deprived of the benefits of this new technology, whether those benefits be economic or tied to First Amendment values.

**I. THE COMMISSION SHOULD ENSURE THAT ANY DIGITAL TRANSMISSION STANDARD IT ADOPTS IS CAPABLE OF EVOLVING TO AN ALL-PROGRESSIVE STANDARD.**

There appears to be just one area of agreement among ATSC proponents, CICATS proponents and policy makers - that it is in the public interest for any digital transmission standard to convert into one which is all-progressive, with square pixel spacing, as soon as possible. ATSC Comments at 21; CICATS Comments at 19-25; Letter from Larry Irving, NTIA, to Chairman Hundt, July 11, 1996, at 2 ("Irving Letter I"). As CFA/MAP discussed in their comments, there are important public policy reasons for an all-progressive system. CFA/MAP Comments at 3-5: The most critical of these is that it will facilitate the convergence of computers and television, thereby lowering the cost of access to new technologies. *Id.* *See also*, Irving Letter II at 1-2.

Therefore, the Commission should ensure that the public will not be deprived of an all-progressive transmission standard. The Commission could choose to bypass the interim step of a combination progressive/interlaced standard and mandate a progressive system such as the base-line standard that CICATS proposes. However, if it chooses to adopt the ATSC standard, it should also adopt a timetable for the migration of the standard to progressive, and mandate that the ATSC proponents work with the computer industry to develop such an all-progressive system. *See* Irving

Letter I at 3.<sup>1</sup> The Commission should then periodically review the progress of this effort, to ensure that no industry party is intentionally dragging its feet.

**II. THE COMMISSION SHOULD CONSIDER THE COST THAT CONSUMERS WILL BE FORCED TO BEAR AS ONE OF THE PRINCIPAL FACTORS IN DETERMINING A PARTICULAR DIGITAL TELEVISION STANDARD.**

CFA/MAP note that only one party in this proceeding - CICATS - has offered any data to demonstrate the relative costs of adopting a particular digital transmission standard. CICATS Comments at 28-30, 37-46. As CFA/MAP have argued, the Commission should, in choosing which, if any, digital television transmission standard to adopt, place strong emphasis on the ultimate cost to consumers. CFA/MAP Comments at 3-6. Lower cost receivers and converter boxes will ensure both the universal accessibility of digital television and a more rapid return of broadcasters' original "analog" channel. *Id.* at 6. At a minimum, the Commission should require the proponents of ATSC to provide cost data (if they do not do so in their reply comments), to help the Commission with its decision.

The fact that the ATSC proponents have not yet submitted this information to the Commission says little about what the actual costs of receivers will be, but speaks volumes about what broadcasters' intentions are with respect to the return of the first channel. Time and again, when they have been asked what new receivers might cost, broadcasters have been intentionally vague, or have posited that receivers will probably be expensive. *See* Comments of the National Association of Broadcasters to *Fourth Further Notice of Proposed Rulemaking* (NAB Comments to Fourth NOPR)

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<sup>1</sup>CFA/MAP recognize that while both ATSC and CICATS agree on the move to all-progressive, they disagree on when and how that migration should occur. Adopting a flexible timetable will solve the first problem. The second must be resolved by the industries themselves, much as differences within ACATS were resolved.

at 3. They have done so, most likely, because broadcasters would prefer to keep their first channel for as long as possible, if not in perpetuity, *see, e.g.*, "Fields Criticizes Broadcasters' 'Sincerity' on Spectrum," *Communications Daily*, May 7, 1996 at 1, and any admission that consumer electronics prices may be low does not aid their campaign to achieve that result. If there is general agreement that most people will be able to afford digital converters or receivers within 10-15 years, then policymakers would not hesitate to adopt a date certain for a return of the first channel. But as long as Congress and the FCC are convinced that a significant portion of the population will not be able to afford the transition any time soon, they will not impose a cut off date and thereby risk shutting them off from free over-the-air television.<sup>2</sup>

The Commission should not be fooled by these obfuscatory tactics. Before the Commission can make an informed decision on what standard is best for the public, it must have all the facts. The public also has a right to know what it will have to pay to replace each and every television in each and every household. The Commission should demand cost data from ATSC and evaluate it and the CICATS cost data with great care.

### **III. THE COMMISSION SHOULD NOT BASE ITS DECISION ON A MERE POSSIBILITY THAT BROADCASTERS WILL OFFER, AND VIEWERS WILL EMBRACE, HIGH DEFINITION TELEVISION.**

Several of the Commenters supporting the ATSC standard extol the wonders of HDTV, specifically how it produces ultra-clear picture resolution and CD-quality sound. Some also posit

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<sup>2</sup>CFA/MAP also understand that a chief cause of the hesitation on the part of ATSC's proponents to provide cost data is that set manufacturers do not want to share that sensitive information with their competitors. While that is an understandable concern, it does not supersede the need for the Commission to make an informed choice on cost when choosing a standard. Furthermore, reasonable accommodations could certainly be devised by the Commission to prevent injurious disclosure of cost data between competitors.

that it is a product for which the American public already clamors. Citizens For HDTV Comments at 14.<sup>3</sup>

These commenters rely on unproven viewer demand and technological promises that the average viewer cannot perceive and broadcasters will rarely, if ever, provide. The Commission, instead, should make a decision on a digital transmission standard based on real benefits to viewers from HDTV. While HDTV may indeed produce beautiful pictures and sound,<sup>4</sup> it does not in any way advance the public interest in diversity of voices or access to new technologies, nor is there any indication that it is important to the vitality of free-over-the-air television. Moreover, as CFA/MAP said in their Comments to the Commission's *Fourth Further Notice of Proposed Rulemaking and Third Notice of Inquiry* in this docket, it is apparent that few broadcasters seek to provide HDTV soon, if ever, and most are not interested in providing it at all. MAP Comments to *Fourth Further Notice of Proposed Rulemaking* at 18, citing Paul Farhi, "Coalition Plans to Build Model HDTV Station, Facility to Test, Refine New Technology," *Washington Post*, Nov. 9, 1995 at B11; Edmund L. Andrews, "Quest for Sharper TV Likely to Bring More TV Instead," *NY Times*, July 9, 1995 at D8; Paul Farhi, "HDTV: High Definition, Low Priority?," *Washington Post*, March 23, 1995 at D1. Indeed, most broadcasters have steadfastly resisted even the most minimal mandates for HDTV programming. See, e.g., NAB Comments to Fourth NOPR at 1-3; Comments of the Association of Independent Television Stations to *Fourth Further Notice of Proposed Rulemaking* at 10-11. In addition, the ordinary viewer cannot perceive a difference between SDTV and HDTV

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<sup>3</sup>The CICATS baseline proposal would also allow for HDTV programming, but unlike the ATSC standard, it would not require consumers to purchase HDTV-capable receivers if they only desire standard definition television ("SDTV") programming.

<sup>4</sup>SDTV also provides CD-quality sound.

on a receiver that is less than 35 inches. *See, e.g., "Dick Wiley, Delivering on Digital," Broadcasting & Cable*, December 4, 1995 at 32.<sup>5</sup> In fact, there is evidence indicating that HDTV might have the greatest impact in uses which will not benefit the viewing public at all, such as defense or telemedicine.<sup>6</sup>

#### **IV. A DELAY IN THE ADOPTION OF A DIGITAL TRANSMISSION STANDARD WILL NOT HARM BROADCASTERS OR THE PUBLIC.**

As discussed above, there are good public interest reasons for the Commission to encourage the CICATS and ATSC proponents to work together towards an all-progressive, square pixel standard, which may, in turn, delay the rollout of digital television for a year or two. CFA/MAP see little harm to the public should there be such a delay. Certainly, there is no great clamor by the public to have digital television sooner rather than later.<sup>7</sup>

But several proponents of the ATSC standard argue that any hesitation by the Commission to adopt a digital transmission standard will result in the *de facto* adoption of the European DVB

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<sup>5</sup>Some of the Commenters urge that surveyed members of the public have shown great enthusiasm for HDTV. Citizens for HDTV Comments at 14. Citizens for HDTV's claims are misleading, however, since they do not divulge whether survey participants were told how large or complex the HDTV sets purchased would have to be, whether they were told how much of a premium they would have to pay for these HDTV sets, or whether people were asked if they would choose to buy a cheaper SDTV set over an HDTV set, if that were possible.

<sup>6</sup>Some parties have pointed out numerous defense, medical, and other uses for HDTV, which may involve non-terrestrial transmission technologies and recorded media. *See* William J. Broad, "US Counts on Computer Edge in the Race for Advanced TV," *NY Times*, November 28, 1989 at C1.

<sup>7</sup>This argument is not inconsistent with CFA/MAP's desire that the Commission ensure a swift transition to digital television. CFA/MAP are concerned that broadcasters will have the use of 12 MHz of spectrum for a longer period than is necessary, but are not troubled if that period begins in 1996, 1998, or the year 2000. Indeed, as CFA/MAP have already stated, a reduction in ultimate cost to consumers would increase the number of sets purchased and *reduce* the duration of the transition period. Therefore, the net effect may be that there is little, if any, change in the date for the completed transition.

standard, which they claim is far inferior. Citizens For HDTV Comments at 17-19, Irving Letter I at 2. They argue that this will, in turn, lead to the loss of manufacturing and other job opportunities that necessarily derive from the adoption of a particular standard. Citizens for HDTV Comments at 16-18, Irving Letter I at 1-2.

The Commission should not be swayed by these "Chicken Littles." There are many instances where the Commission was warned that the speedy adoption of a particular technology or standard was necessary to ward off the wholesale adoption of inferior technologies or standards, only to have those technologies and standards fail precisely because of their inferiority. Indeed, the best example of this occurred very early in this docket, when parties urged quick adoption of an American HDTV standard to ward off the invasion of the Japanese analog HDTV standard, which has proven an abject failure.<sup>8</sup> If broadcasters and consumer electronics manufacturers do indeed want to provide the best digital transmission standard, as they constantly claim they do, they should be willing to wait.

An even greater red herring is the related argument posed by several electronics manufacturers that failure to adopt the ATSC standard will result in the loss of jobs. Citizens for HDTV Comments at 16-17. *See also*, ATSC Comments at 30-31. Indeed, the electronics manufacturers that are leading the charge for ATSC are actually headquartered in Europe. It is well-known, moreover, that each and every consumer electronics manufacturer that has a stake in ATSC is also preparing to manufacture DVB-compatible equipment in Europe. In the improbable event that a DVB standard should become prevalent, these same companies can be expected to employ the same

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<sup>8</sup>The Japanese standard for an analog HDTV has been a terrific failure. Although HDTV has been available there since 1991, Japanese manufacturers have sold a mere 100,000 receivers by the end of 1995 at prices of \$4000-6000 each. "High Definition Still Elusive," *Electronic News*, June 10, 1996. *See also*, Farhi, "HDTV: High Definition, Low Priority?," Andrew Pollack, "Japan May Abandon its System for HDTV," *NY Times*, February 23, 1994 at D7.

number of American workers, in the same plants, to make roughly the same number of sets.

### CONCLUSION

MAP/CFA encourage the Commission not to lose sight of those with the most at stake in this proceeding - the viewers. The broadcast and electronics manufacturing industries have already asked the public to shoulder an enormous economic burden in purchasing receivers and converter boxes to make the transition to digital television. In determining which, if any, standard to adopt, it is incumbent upon the Commission to minimize this burden. So far, only CICATS has offered evidence to that effect, showing that an all-progressive, base-line standard would minimize retail costs and allow a single screen to serve as both television and computer monitor. ATSC, on the other hand, has only raised red herrings; it has been silent on the cost issue. Regardless whether the Commission favors the ATSC standard, CICATS standard, or a compromise solution, the result must place the interests of viewers, and not a particular industry, first.

*Of Counsel:*

Bradley Stillman  
CONSUMER FEDERATION  
OF AMERICA  
1424 16th Street  
Washington, DC 20036

*Law Student Intern:*

Deneen Howell  
Stanford Law School

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Respectfully Submitted,



Gigi B. Sohn



Joseph S. Paykel

MEDIA ACCESS PROJECT  
2000 M Street, NW  
Suite 400  
Washington, DC 20036  
202-232-4300